100TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPT. 100-102
Part 2

RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT IMPROVEMENT ACT OF 1987

OCTOBER 19, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2167 which on April 23, 1987, was referred jointly to the Committee on Energy and Commerce and the Committee on Ways and Means]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2167) to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that Act, to increase the maximum daily benefit provided under that Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Introduction:	
a. Purpose and Scope of the Bill	5
b. Background and Need for Legislation	6
c. Summary of Principal Provisions	8
II. Detailed Explanation of Provisions:	
a. Implement an experience rating tax system	9
b. Increase the repayment tax	11
c. Use the same taxable wage base for the administrative tax, regular tax, repayment tax, surtax, and surcharge	11
d. Establish a surcharge rate schedule to ensure adequate reserves in the railroad unemployment insurance account	12

78-228

H783-9

e. Allow public communter railroads to cover their unemployment compensation and sickness costs on a "reimbursable basis" for 1988 and 1989 only 12
f. Require a separate "section 502" report on the Railroad Unemployment Compensation program each year 13
g. GAO Study of Fraud and Payment Errors 13
III. Budget Effects of the Bill:
a. Committee Estimate 13
b. Statement regarding New Budget Authority on Tax Expenditures 14
c. Cost Estimate prepared by the Congressional Budget Office 14
IV. Other Matters to be Discussed Under House Rules:
a. Vote of Committee in reporting the bill 17
b. Oversight findings and recommendations 17
c. Oversight by Committee on Government Operations 17
d. Inflationary Impact 17
V. Changes in Existing Law Made by the Bill, as Reported 18
VI. Additional Views of Congressman Bill Frenzel 52

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 9, line 8, strike out "with" and insert "Except as provided in clause vi, with".

Page 11, after line 15, insert the following:

> (vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—with respect to each of calendar years 1988 and 1989, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable to such carrier.

Page 12, beginning in line 22, strike out "Unless a surtax" and all that follows through "add" in line 25, and insert in lieu thereof "Add".

Page 19, beginning in line 20, strike out "all taxes" and all that follows through "1986;" in line 22 and insert in lieu thereof "that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 106(b) of the Railraod Unemployment Insurance and Retirement Improvement Act of 1987; and".

Page 19, line 24, strike out "section 3321(c)(1)(A)" and insert in lieu thereof "section 3321(a)".

Page 26, line 3, insert ", but greater than or equal to zero." after "clause (i)".

Page 26, after line 4, insert:

> (iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

Page 31, beginning in line 15, strike out "surtax" and all that follows through "percent." and insert in lieu thereof "3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent."

Page 40, after line 19, insert:

SEC. 105. ANNUAL REPORT.

On or before July 1 of 1988, and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the financial status of the railroad unemployment insurance system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including any adjustment the Railroad Retirement Board recommends regarding the rates of employer contributions.

SEC. 106. AMENDMENTS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) IN GENERAL.—Chapter 23A of the Internal Revenue Code of 1986 (relating to railroad unemployment repayment tax) is amended to read as follows:

"CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.
"Sec. 3322. Definitions.

"SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

"(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3322. DEFINITIONS.

"(a) RAIL EMPLOYER.—For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—For purposes of this chapter, the term 'rail wages' means, with respect to any calendar month, so much of the remuneration paid during such

month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

"(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply."

(b) CONTINUATION OF SURTAX RATE THROUGH 1989.—

(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1990—

(A) there shall be substituted for "4 percent" in subsections (a) and (b) of section 3321 of the Internal Revenue Code of 1986 the percentage equal to the sum of—

(i) 4 percent, plus

(ii) the surtax rate (if any) for such calendar month, and

(B) subsection (C) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of tansfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(B) zero for any other calendar month.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6157 of such Code (relating to quarterly payment of railroad unemployment repayment tax) is hereby repealed.

(2) Paragraph (2) of section 6201(b) of such Code (relating to amount not to be assessed) is amended by striking out "or tax imposed by section 3321".

(3) Section 6317 of such Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(A) by striking out "or tax imposed by section 3321", and

(B) by striking out "and 32A, as the case may be,".

(4) Subsection (e) of section 6513 of such Code (relating to payments of Federal unemployment tax) is amended by striking out the last sentence.

(5) Subsection (i) of section 6601 of such Code (relating to exception as to Federal unemployment tax) is amended by striking out "or 3321".

(6) Subparagraph (A) of section 232(a)(2) of the Railroad Retirement Revenue Act of 1983 is amended by

striking out "is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954" and inserting in lieu thereof "is not attributable to the surtax rate under section 106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987".

(7) Subparagraph (B) of section 232(a)(2) of such Act is amended by striking out "section 3321(c)(1)(B) of such Code" and inserting in lieu thereof "section 106(b) of such Act".

(d) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (b), shall apply to remuneration paid after December 31, 1988.

SEC. 107. GAO STUDY OF FRAUD AND PAYMENT ERRORS.

The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to Congress the results of such study. Such report shall include—

(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate.

I. INTRODUCTION

A. PURPOSE AND SCOPE OF THE BILL

The Railroad Unemployment Insurance and Retirement Improvement Act of 1987, H.R. 2167, was jointly referred to the Committee on Ways and Means and the Committee on Energy and Commerce. The bill has two purposes: (1) to improve the tax system used to finance unemployment and sickness benefits to railroad employees: and (2) to make modest improvements in certain benefit provisions.

Under the rules of the House of Representatives, the Committee on Energy and Commerce has jurisdiction over the unemployment benefits paid to railroad employees. The Committee on Ways and Means has jurisdiction over revenue measures.

H.R. 2167 would implement most of the recommendations made by the Railroad Unemployment Compensation Committee in June 1984; the Committee was created by P.L. 98-76. It would establish an "experience rating" tax schedule for employers under which an employer's tax rates would be proportional to layoffs. Tax rates could be as high as 12.5 percent. H.R. 2167 would also index the

$600 per month taxable wage base to two-thirds of the increase in national average wages and would increase the administrative tax rate from 0.5 to 0.65 percent.

The bill, as amended by the Committee on Ways and Means, would also:

Establish a railroad unemployment insurance debt repayment tax rate of 4.0 percent beginning in 1989 and continuing until the debt to the Railroad Retirement Program plus interest is repaid;

Establish a uniform taxable wage base for all railroad unemployment insurance taxes;

Incorporate the present law 3.5 percent surtax, which is applied to new borrowing, into the new surcharge rate schedule proposed in H.R. 2167. Under this approach, a surcharge of 1.5 percent would apply when net assets in the Railroad Unemployment Insurance account fall below $100 million. A surcharge of 2.5 percent would be in effect if net assets dropped to less than $50 million. The 3.5 percent surcharge would apply if net assets were below zero;

Authorize public commuter railroads to participate in the railroad unemployment insurance program on a "reimbursable basis" in 1988 and 1989 only.

Require an annual report on the financial condition of the railroad unemployment insurance program; and

Require a study of fraud and payment error in the railroad unemployment insurance program by the General Accounting Office due one year after the date of enactment.

B. BACKGROUND AND NEED FOR LEGISLATION

During the period from 1981 to 1983, high unemployment drained the Railroad Unemployment Insurance Account (RUIA). This necessitated borrowing from the Railroad Retirement Account to cover railroad unemployment and sickness benefits. Presently, this debt owed to the pension fund stands at about $750 million. At the same time, the Railroad Retirement program faced a financial crisis, which Congress addressed in the Railroad Retirement Solvency Act of 1983.

The Committee on Ways and Means' report on the Railroad Retirement Solvency Act of 1983 (Solvency Act) stated: "Concerning the Railroad Unemployment Compensation System, your Committee is concerned with both its continued financial viability and the extent to which its financial difficulties endanger the viability of the retirement system through continued borrowing." In response to this concern, the Solvency Act repealed the Railroad Unemployment Compensation (RUC) borrowing authority effective October 1, 1986, imposed a debt repayment tax on railroad employers effective October 1, 1986, and authorized a Railroad Unemployment Compensation Committee to report to Congress in 1984 on recommended adjustments in contributions and benefits that would enable the RUC program to repay all loans from the Railroad Retirement Account by the end of the year 2000.

The debt repayment tax was authorized from July 1, 1986 through September 30, 1990. It was to begin at 2.0 percent on the

first $7,000 paid annually to each employer and was to increase by 0.3 percentage point each January, reaching 3.2 percent in 1990.

In June 1984, the Railroad Unemployment Compensation Committee reported to Congress. Among its recommendations were:

Implement an "experience rating" tax system;

Renew the borrowing authority of the RUC program beginning October 1, 1985;

Transfer $135 million from the General Fund to the Railroad Unemployment Insurance Account on October 1, 1985 in order to provide a subsidy to the RUC program that was similar to the subsidy that had been provided to the States in the Federal-State unemployment compensation system; and

Cancel all interest owed on loans to the RUC program that accrued after September 30, 1980.

Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Congress reauthorized the RUC borrowing authority, but did not authorize the $135 million transfer from the General Fund or the cancellation of interest accrued after September 30, 1980. Instead, Congress increased the repayment tax rates to 4.3, 4.7, and 6.0 percent in 1986, 1987, and 1988, respectively, and authorized a surtax of 3.5 percent on the first $7,000 paid annually to each employee. The surtax is to be activated if any new loans are obtained after September 30, 1985. Moreover, the surtax was authorized to remain in effect in any year if in the prior year a balance of principal or interest remained on September 30.

In July 1987, the Railroad Retirement Board actuary reported to Congress that an immediate increase of 4.5 percentage points was needed to continue funding for "tier 2" of the Railroad Retirement program. In response, the Administration recommended a 3 percentage point increased in the tier 2 tax rate in 1988 followed by an additional 1.5 percentage point increase in 1989. On July 1, 1987 the Committee on Ways and Means, Subcommittee on Social Security recommended a 2 percentage point increase in the tier 2 Railroad Retirement tax rate, which was adopted by the Committee as part of budget reconciliation legislation on July 22, 1987.

H.R. 2167 would implement the basic experience-rating system recommended by the RUC Committee. This system would achieve two objectives: (1) It would ensure that each railroad would pay for the benefits received by their workers through the experience-rating tax system; and (2) It would ensure a long-run balance between the income and outgo of the program. The first objective would be achieved by charging employers for the benefits received by their workers and by making their tax rates directly proportional to these charges. The second objective would be achieved by a combination of experience tax rates and surcharge rates. The surcharge rates would apply when the balance in the Railroad Unemployment Insurance Account is low.

The 4.0 percent debt repayment tax is needed to improve the financial condition of the Railroad Retirement Account and the Railroad Unemployment Insurance Account. Under current projections, the debt would be repaid in 1996. This would help to put the RUC program on a sound financial basis and would help to finance tier 2 Railroad Retirement benefits. During the time the repayment tax is in effect, it would be roughly equivalent to a 1 percent-

age point increase in the tier 2 tax rate. Consequently, in conjunction with the 2 percentage point increase in the tier 2 tax rate separately approved by the Committee on Ways and Means, the total tax increase would be about the same as the 3 percentage point increase the Administration proposed for 1988.

Using the same taxable wage base for all Railroad Unemployment Compensation taxes and creating a three-tiered surcharge mechanism would simplify the program by eliminating the surtax and one of the two taxable wage bases under present law. In addition, linking the repayment tax and the 3.5 percent surtax to the indexed monthly $600 taxable wage base instead of the fixed $7,000 annual wage base would lead to more revenue collected in the future.

The provision to allow public commuter railroads to participate on a "reimbursable basis" would reduce the indirect subsidy that has gone from public commuter railroads to private railroads. As a result of steady employment among public commuter railroads, these employers pay about four times as much railraod unemployment taxes into the RUC program as their employees receive in benefits. Over time, the experience rating tax structure will result in these employers paying taxes that bear a closer relationship to the benefits paid to their employees. In the interim, the bill would allow public commuter railroads to participate in the Railroad Unemployment Compensation (RUC) program on a reimbursable basis until the experience rating system begins to take effect in 1990. After 1990, the public commuter railroads would be treated the same as any other railroad under the experience rating tax system.

Finally, the bill would authorize two reports in order to provide Congress with more information on the Railroad Unemployment Compensation (RUC) program. The "section 502" report on the financial condition of the RUC program would help Congress track the financial condition of the RUC program and monitor debt repayment. The GAO study would provide more information on the Railroad Retirement Board's efforts to minimize the costs of fraud and payment errors and to provide recommendations on how these efforts could be improved.

C. SUMMARY OF PRINCIPAL PROVISIONS

H.R. 2167, the Railroad Unemployment Insurance and Retirement Improvement Act of 1987, has been jointly referred to the Committee on Ways and Means and the Committee on Energy and Commerce. H.R. 2167 implements many of the recommendations made in 1984 by the Congressionally-mandated Railroad Unemployment Compensation Committee. It includes modest benefit improvements and establishes an experience rating tax schedule in which an employer's taxes would be directly proportional to the amount of unemployment benefits paid to employees.

In addition to revising the basic tax structure for the Railroad Unemployment Insurance program, the Committee amendments to H.R. 2167 guarantee that the debt (plus interest) owed by the Railroad Unemployment Insurance program to the retirement program is repaid gradually over the next 12 years, simplify and streamline

the existing tax structure, and ease the transition to the experience-rated tax system for public commuter railroads.

The revenue provisions of H.R. 2167, as amended by the Committee on Ways and Means, include the following:

Taxable wage base.—Indexes the $600 per month taxable wage bast to two-thirds of the increase in national average wages. In addition, uses the same taxable wage base for all Railroad Unemployment taxes by changing the taxable wage base for the debt repayment tax and the surtax from $7,000 annually to $600 monthly.

Experience rating.—Establishes an "experience rating" tax schedule for employers; employer tax rates would be proportional to layoffs; tax rates could be as high as 12.5 percent.

Administrative tax rate.—Increases the administrative tax rate from 0.5 percent to 0.65 percent.

Repayment tax.—Changes the current repayment tax rate to 4.0 percent, beginning in 1989 and maintains it until the debt to the retirement program plus interest is repaid.

Surcharge rate schedule.—Incorporates the present law 3.5 percent surtax, which is applied to new borrowing, into a new surcharge rate schedule. Under this approach, a surcharge of 1.5 percent would apply when net assets in the RUI account fall below $100 million. A surcharge of 2.5 percent would be in effect if net assets dropped to less than $50 million. The 3.5 percent surcharge would apply if net assets were below zero.

Public commuter railroads.—Allows public commuter railroads to cover their unemployment and sickness costs in the Railroad Unemployment Compensation program on a "reimbursable basis" for 1988 and 1989 only. Beginning in 1990, public commuter railroads would be required to participate in the experience rated system on the same basis as any other railroad.

Reporting requirements.—Requires a separate "section 502" report on the financial condition of the Railroad Unemployment Compensation program each year.

GAO study of fraud and payment errors.—Requires a study of the frequency of fraud and payment errors in the Railroad Unemployment Compensation program. The report would include estimates of annual losses due to fraud and overpayment, a comparison of similar rates in other Federal programs, and recommendations for legislative measures that would solve any fraud and payment error problems that are identified by the study.

II. Detailed Explanation of Provisions

A. IMPLEMENT AN EXPERIENCE RATING TAX SYSTEM

Present law

The Railroad Unemployment Compensation program has four taxes: (1) The regular employer payroll tax is currently 8 percent of the first $600 paid monthly to each employee. The tax rate varies inversely with the balance in the Railroad Unemployment Insurance Account, but it has remained at the maximum of 8 percent since 1981 because the account owes a debt to the Railroad Retire-

ment Account. (2) An administrative tax rate of 0.5 percent of the first $600 paid to each employee is included as part of the basic employer payroll tax. (3) A debt repayment tax is authorized for 1987 through the end of fiscal year 1990. The tax rates are 4.7, 6.0, 2.9, and 3.2 for 1987, 1988, 1989, and 1990, respectively. The taxable wage base is the first $7,000 paid annually to each employee except in 1990 when the tax is effective for only three-fourths of the year. In 1990, the taxable wage base is three-fourths of $7,000 or $5,250. (4) A surtax of 3.5 percent of the first $7,000 paid annually to each employee would go into effect if there is new borrowing from the Railroad Retirement Account after September 30, 1985. Since no new loans have been obtained, this tax has not taken effect.

Explanation of provision

The basic tax rate would be set at 8 percent in 1988 and 1989, after which it would vary with an experience-rating tax system applied to each employer. The experience-rating tax system would be phased in over a three year period beginning in 1990. Beginning in 1992, employers would pay a basic experience tax rate plus an administrative tax rate of 0.65 percent. Each of these taxes would apply to a $600 monthly taxable wage base that would increase each year by two-thirds of the increase in national average wages. The repayment tax and the surtax would remain as they are under present law.

The basic experience tax rate would have three components: (1) The allocated-experience rate would be based on the benefits paid that can be attributed to an employer. This would ensure that each railroad would cover the cost of benefits attributable to its unemployed workers. (2) The unallocated-experience rate would cover benefits that cannot be charged to a specific railroad. This would ensure that unallocable costs would be shared by all railroads. (3) The risk-shared rate would cover costs that are allocable to a railroad employer, but can't be charged because the employer is at the maximum tax rate already. This would ensure that these costs would be covered by the system until employers paying the maximum tax rate would pay enough into the program to cover them with their allocated-experience tax rate.

In addition to the experience tax rates, a surcharge rate would be imposed if the balance in the Railroad Unemployment Insurance Account (RUIA) drops to certain levels. If the balance is below $50 million, the surcharge rate would be 2.5 percent. If the balance is at or above $50 million but below $100 million, the surcharge would be 1.5 percent. If the balance is at or above $100 million, no surcharge would be in effect.

Finally, the overall employer tax rate would have a maximum of 12 percent, unless the surtax is in effect. If the 3.5 percent surtax becomes effective, the overall maximum would be 12.5 percent. This would be composed of a surtax of 3.5 percent and a maximum applied to the other tax rates of 9 percent.

B. INCREASE THE REPAYMENT TAX

Present law

Since 1959, the railroad unemployment trust fund has been able to borrow funds from the pension fund when employer taxes have not been sufficient to cover the costs of unemployment and sickness benefits. This borrowing authority has been used frequently. An increase in railroad unemployment from 1981 to 1983 resulted in substantial borrowing from the pension fund.

In 1983, the Railroad Retirement Solvency Act established a repayment tax. The current repayment tax is authorized through fiscal year 1990. It applies tax rates of 4.7, 6.0, and 2.9 percent to the first $7,000 paid annually to each employee in 1987, 1988, and 1989, respectively. In 1990, a tax rate of 3.2 percent applies for only three-fourths of the year. Thus, the taxable wage base in 1990 is three-fourths of $7,000 or $5,250. The debt, plus interest owed to the pension fund currently equals $750 million. Expiration of the repayment tax in 1990 would leave $600 million unpaid. This would grow to over $1 billion by the year 2000.

Explanation of provision

Change the tax rate to 4.0 percent beginning in 1989. Maintain this tax rate until the debt is repaid. The repayment tax would expire when the debt plus interest is repaid. According to current projections, the debt plus interest would be repaid in 1996 if a 4.0 percent repayment tax takes effect in 1989. The taxable wage base would be the indexed monthly taxable wage base.

Effective date

January 1, 1989.

C. USE THE SAME TAXABLE WAGE BASE FOR THE ADMINISTRATIVE TAX, REGULAR TAX, REPAYMENT TAX, SURTAX, AND SURCHARGE

Present law

The railroad unemployment compensation program has 4 employer payroll taxes: (1) an administrative tax of 0.5 percent on the $600 monthly wage base; (2) a regular tax of 8 percent currently on the $600 monthly wage base that pays for benefits; (3) a debt repayment tax of 4.7 percent currently on the $7,000 wage base that repays debt incurred before September 30, 1985; and (4) a surtax rate of 3.5 percent on the $7,000 wage base to repay any new debt incurred after September 30, 1985. Since there has been no new borrowing after September 30, 1985, the surtax is not in effect.

Explanation of provision

Use the same indexed $600 monthly taxable wage base established by H.R. 2167 for the administrative tax, the regular tax, the repayment tax, the surtax, and the surcharge. The surtax would be repealed after 1989 (see discussion below).

Effective date

January 1, 1989.

D. ESTABLISH A SURCHARGE RATE SCHEDULE TO ENSURE ADEQUATE RESERVES IN THE RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Present law

A surtax of 3.5 percent is applied to the $7,000 annual wage base if the Railroad Unemployment Insurance Account incurs a new debt to the Railroad Retirement Program as of the end of the fiscal year. This surtax applies to borrowing that occurs after September 30, 1985. Since no new debt has been incurred since September 30, 1985, this tax has never been imposed.

Explanation of provision

Create a 3-tiered surcharge tax schedule. The surcharges would be related to net assets not the cash balance in the RUIA as originally proposed in H.R. 2167. Under this approach, a surcharge of 1.5 percent would apply when net assets in the RUI account fall below $100 million. A surcharge of 2.5 percent would be in effect if net assets dropped to less than $50 million. The 3.5 percent surcharge would apply if net assets were below zero. Net assets would be equal to the balance in the RUIA minus new outstanding loans obtained after September 30, 1985 from the Railroad Retirement program.

Effective date

January 1, 1990.

E. ALLOW PUBLIC COMMUTER RAILROADS TO COVER THEIR UNEMPLOYMENT COMPENSATION AND SICKNESS COSTS ON A "REIMBURSABLE BASIS" FOR 1988 AND 1989 ONLY

Present law

Public commuter railroads pay the same railroad unemployment taxes as other railroads—the regular tax of 8 percent on the first $600 paid to an employee each month and the repayment tax of 4.7 percent on the first $7,000 paid annually to each employee. Given the relatively low levels of unemployment experienced by public commuter railroads, the taxes paid substantially exceed the benefits collected by public commuter railroad employees.

Explanation of provision

Allow public commuter railroads to cover their costs in 1988 and 1989 only by reimbursing the Railroad Retirement Board quarterly for the full quarterly cost of the railroad unemployment compensation and sickness benefits their employees have received. Public commuter railroads would continue to pay the debt repayment tax and the administrative tax. Public commuter railroads would be required to participate under the experience rating system beginning in 1990 on the same basis as any other railroad.

Effective date

January 1, 1988.

F. REQUIRE A SEPARATE "SECTION 502" REPORT ON THE RAILROAD UNEMPLOYMENT COMPENSATION PROGRAM EACH YEAR

Present law

Section 502 of the Railroad Retirement Solvency Act of 1983 required the actuary of the Railroad Retirement Board to report on the financial condition of the Railroad Retirement program each year.

Proposal

The Railroad Retirement Board would be required to provide a similar report with estimates for the Railroad Unemployment Compensation program. Estimates would include projected income and outgo of the Railroad Unemployment Insurance Account, debt, debt repayments, and balances under various employment assumptions by fiscal year. If full repayment would occur before the end of the normal actuarial projection period for the retirement program, projections could stop the year after the year in which full repayment would occur, but in no case would they stop before 5 years.

Effective date

Date of enactment.

G. GAO STUDY OF FRAUD AND PAYMENT ERRORS

Present law

No provision.

Explanation of provision

The General Accounting Office (GAO) would be required to study the frequency of fraud and payment errors in the Railroad Unemployment Compensation (RUC) program. The report should include estimates of annual losses due to fraud and overpayment, a comparison of similar rates in other Federal programs, and recommendations for legislative measures that could be taken to solve any fraud and payment error problems that are identified by the study. GAO is encouraged to analyze other aspects of fraud and payment errors if it is appropriate to do so. The study should be considered a preliminary step toward creating a quality control system for the RUC program.

Effective date

The study would be initiated as soon as possible after enactment of H.R. 2167 and completed within 1 year after the date of enactment.

III. Budget Effects of the Bill

A. COMMITTEE ESTIMATE

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimates prepared by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of Rule XI of the House of Representatives, the Committee states that the letter from the Congressional Budget Office indicates that there is a change in budget authority and that there are no new or increased tax expenditures as a result of the bill.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 15, 1987.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2167, the Railroad Unemployment Insurance and Retirement Improvement Act of 1987, as ordered reported by the Committee on Ways and Means on October 15, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Edward M. Gramlich, Acting Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2167.
2. Bill title: Railroad Unemployment Insurance and Retirement Improvement Act of 1987.
3. Bill status: As ordered reported by the House Committee on Ways and Means on October 15, 1987.
4. Bill purpose: The bill would amend the Railroad Unemployment Insurance Act to establish a contribution structure based on experience rating, to assure sufficient resources to pay program costs, to provide certain benefit increases, and to tighten eligibility requirements. The bill would also modify certain benefit provisions in the Railroad Retirement Act.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Budget authority	13	27	14	−13	−22
Estimated outlays	21	20	19	22	23

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Revenues (net)	6	6	53	78	74
Net deficit effect	15	14	−34	−54	−51

The costs of this bill fall within Function 600.

Basis of estimate—The fiscal impact of this bill was estimated using the Railroad Retirement Board's forecasting model of the railroad unemployment insurance program's obligations and revenues and data from the board's actuary as to the potential effects on the railroad retirement program. Because this cost estimate was prepared without final bill language, these estimates are preliminary and subject to change. This cost estimate is consistent with both the CBO February and August baseline.

Changes in railroad unemployment insurance.—This bill would make several changes in the way in which railroad unemployment and sickness benefits are paid. It would (1) increase the maximum daily benefit amount payable to program beneficiaries from $25 to $30 and index this amount annually by two-thirds of the increase in railroad retirement tier I tax base; (2) expand the waiting period from 4 days to 9 days for an individual's first benefit registration period of each year; and (3) mandate that potential recipients have worked at least six months during a base year and have earned compensation of at least 5 times the monthly base amount ($600 in 1987). These provisions would be effective on the date of enactment, assumed to be December 1, 1987 for this estimate.

In addition to the benefit provisions, H.R. 2167 would also make significant changes in the manner in which the program would be financed. The revenue estimates are based upon the assumption that the revenues collected from the regular Railroad Unemployment Insurance Act taxes are used to pay current benefits and are not used to repay past loans made from the Railroad Retirement account. First, the legislation establishes an 8 percent contribution rate required for employers for calendar years 1988 and 1989. (This is the maximum contribution rate under current law.) Second, beginning in calendar 1990, an employer's tax rate would be partially determined by the actual unemployment experience of the employer's workforce. By 1992, the experience-rating would be fully phased in. The overall basic contribution rate would have three aspects: (1) a railroad specific rate; (2) an overall industry rate to cover costs which cannot be attributed to any single railroad; and (3) a "risk-shared" rate which is designed to recapture any revenue lost in cases where the maximum contribution rate allowed—12 percent—is less than the rate that would be calculated for a rail employer. Third, the contribution base would be indexed by two-thirds of the percentage increase in the railroad retirement tier I earning base, beginning January 1988. Fourth, the legislation would increase the administrative expense share of the overall contribution rate from 0.5 percent to 0.65 percent. Fifth, public commuter railroads would pay unemployment and sickness benefits on a reimburseable basis in calendar years 1988 and 1989. Starting in

1990, each commuter railroad's contribution rate will be determined using the same experience-rating formula as that used for other railroads. Sixth, the repayment tax rate would be increased to 4 percent beginning on January 1, 1989 and would be maintained at that rate until the loan from the Railroad Retirement Account is repaid, including interest. The repayment tax contribution base would be changed to the $600 monthly contribution base and would also be indexed.

Below are the estimated effects on the railroad unemployment insurance program.

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Estimated budget authority	13	28	16	−11	−19
Estimated outlays	11	10	9	12	13
Estimated revenues RRUI (gross)	7	7	66	97	92

Changes in railroad retirement.—Title III of this bill would amend the Railroad Retirement Act of 1974 by (1) replacing the restrictions contained in the last person provisions with partial work deductions, (2) providing railroad employees who have ten years of service with a lump sum equal to the amount of tier 2 employee tax paid on severance compensation, (3) increasing the earnings limit for persons receiving disability annuities, and (4) providing that June 15, 1948 through December 15, 1950 be deemed a "war service period" with respect to an individual who, after he is released from the military, returns to railroad employment without intervening employment for a non-railroad company or person.

The Railroad Retirement Board has estimated that these provisions would cost the federal government about $10 million or less per year in additional benefit payments. Budget authority is reduced to account for the reduction in interest earned by the railroad retirement trust funds due to the increased benefit payments.

The amendment to the last person provisions in the Act would increase annual railroad retirement benefit payments by about $5 million. The severance provision would increase annual benefit payments by less than $5 million. The disability and military provisions would have a cost impact of less than $1 million per year.

The proposed last person provision would allow an employee or spouse annuitant to receive a reduced benefit after returning to work for his or her last employer (not including covered railroad employers). Under current law, no benefit is payable for any month in which an employee or spouse annuitant engages in last person service. The new provision would result in increased benefit payments to would-be annuitants who instead choose last person service and therefore receive no benefits under current law, and decreased benefit payments to annuitants who would retire under current law to receive the full benefit but now would decide to continue in last person service. The Railroad Retirement Board estimates that the net effect of the provision would be an increase in benefit payments of about $5 million per year.

Estimated cost to the Federal Government:

[By fiscal year, in million of dollars]

	1988	1989	1990	1991	1992
Estimated budget authority	(1)	−1	−2	−2	−3
Estimated outlays	10	10	10	10	10

[1] Indicates less than $500,000

6. Estimated cost to State and local government: None.

7. Estimated comparison: None.

8. Previous CBO estimate: The Congressional Budget Office prepared a cost estimate dated May 15, 1987 for a similar version of H.R. 2167, ordered reported by the House Committee on Energy and Commerce.

9. Estimate prepared by: Michael Pogue and Linda Radey.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

IV. Other Matters Required To Be Discussed Under the Rules of the House

A. VOTE OF THE COMMITTEE IN REPORTING THE BILL.

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made: the bill, H.R. 2167, was ordered favorably to the House of Representatives on October 15, 1987 by a voice vote.

B. OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(l)(3)(A), of Rule XI of the Rules of the House of Representatives, the Committee reports that the need for this legislation was confirmed by the oversight hearing of the Subcommittee on Public Assistance and Unemployment Compensation, which was held on July 14, 1987. During the hearing, testimony was received from representatives of railroad management, railroad labor, public commuter railroads, the Railroad Retirement Board, and the former Chairman and public member of the Railroad Unemployment Compensation (RUC) Committee.

Witnesses discussed the outstanding debt to the pension fund and also suggested ways to streamline the RUC tax system. Representatives of public commuter railroads proposed to accelerate the implementation of experience rating.

C. OVERSIGHT BY COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings and recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the provisions contained in this bill.

D. INFLATIONARY IMPACT

In compliance with clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have any inflationary impact on the economy.

78-228 O - 87 - 2

V. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Railroad Unemployment Insurance Act

DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) * * *

* * * * * * *

(i)(1) *In General.*—The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative[: *Provided, however,* That in computing the compensation paid to any employee, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of $400 for any month after the month in which this Act was so amended and before January 1984, or in excess of $600 for any month after 1983, shall be recognized.], *except that in computing the compensation paid to any employee, no part of any month's compensation in excess of the monthly compensation base (as defined in subdivision (2)) for any month shall be recognized.* Solely for the purpose of determining the compensation received by an employee in a base year, the term "compensation" shall include any separation allowance or subsistence allowance paid under any benefit schedule provided under section 701 of title VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act, but does not include any other benefits payable under that title. The total amount of any subsistence allowance payable under a benefit schedule provided pursuant to section 701 of the Regional Rail Reorganization Act of 1973 shall be considered as being compensation in the month in which the employee first timely filed a claim for such an allowance. Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individuals as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an

identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 6 of this Act, the period during which such compensation will have been earned.

(2) MONTHLY COMPENSATION BASE.—

(A) IN GENERAL.—For purposes of subdivision (1), the term "monthly compensation base" means the amount—

(i) of $400 for calendar months before January 1, 1984;

(ii) of $600 for calendar months after December 31, 1983 and before January 1, 1988; and

(iii) computed under subparagraph (B) for months after December 31, 1987.

(B) COMPUTATION.—

(i) IN GENERAL.—The amount of the monthly compensation base for each calendar year beginning after December 31, 1987, is the greater of—

(I) $600; or

(II) the amount, as rounded under clause (iii) if applicable, computed under the formula:

$$B = 600 \left(1 + \frac{A - 37{,}800}{56{,}700} \right)$$

(ii) MEANING OF SYMBOLS.—For the purposes of the formula in clause (i)—

(I) "B" is the dollar amount of the monthly compensation base; and

(II) "A" is the amount of the applicable base with respect to tier 1 taxes, for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1986.

(iii) ROUNDING RULE.—If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such

rounding being upward in the event the amount computed is equidistant between two multiples of $5.

* * * * * * *

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work, or, with respect to a female employee, a calendar day on which, because of pregnancy, miscarriage, or the birth of a child, (i) she is unable to work or (ii) working would be injurious to her health, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however,* That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than **[**$1,500**]** *an amount that is equal to 5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act: Provided further,* That remuneration for a working day which includes a part of each two consecutive calendar days shall be deemed to have been earned on the first of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the second of such calendar days: *Provided further,* That any calendary day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of **[**$10**]** *$15* a day for the period with respect to which such remuneration is payable or accrues, if the work for which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

* * * * * * *

BENEFITS

SEC. 2. (a)*(1)* Benefits shall be payable to any qualified employee for each day of unemployment in excess of [four during any registration period:] *nine during the first registration period within a benefit year in which the employee has more than four days of unemployment and for each day of unemployment in excess of four during any other registration period in the same benefit year: Provided, however,* That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work. Benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, but [excluding four days of sickness in any registration period] *excluding nine days of sickness in the first registration period during a benefit year and four days of sickness in any other registration period in the same benefit year.* A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness.

(2) The daily benefit rate with respect to any such employee for such day of unemployment or sickness shall be in an amount equal to 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, but not less than $12.70: *Provided, however,* That for registration periods beginning after June 30, 1975, but before July 1, 1976, such amount shall not exceed $24 per day of such unemployment or sickness [and], that for registration periods beginning after June 30, 1976, *but before July 1, 1987,* such amount shall not exceed $25 per day of such unemployment or sickness, *that for registration periods beginning after June 30, 1987, but before July 1, 1988, such amount shall not exceed $30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1988, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection.* The daily rate of compensation referred to in this paragraph shall be determined by the Board on the basis of information furnished to the Board by the employee, his employer or both.

(3)(A) The maximum daily benefit rate which the Board is required to compute under section 12(r)(2) shall be the amount computed pursuant to the following formula, but shall be not less than $30:

$$BR = 25\left(1 + \frac{A - 600}{900}\right)$$

(B) For purposes of such formula—

(i) "BR" represents the maximum daily benefit rate; and

(ii) "A" represents the amount obtained by dividing the amount of the "applicable base" with respect to tier 1 taxes as

determined under section 3231(e)(2) of the Internal Revenue Code of 1986 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest multiple of $100.

(C) If the maximum daily benefit rate computed under such formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1.

(4) In computing benefits to be paid, days of unemployment shall not be combined with days of sickness in the same registration period.

* * * * * * *

(c) The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty: *Provided, however,* That the total amount of benefits which may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits which may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year except that notwithstanding the provision of section 1(i) of this Act, in determining the employee's compensation in the base year for purposes of this proviso and the second proviso of this subsection, any money remuneration paid to the employee for services rendered as an employee [not in excess of $775 in any month shall be taken into account:] *shall be taken into account that is not in excess of $775 in any month before 1988 and, in any month in a base year after 1987, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600: Provided further,* That, with respect to an employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the maximum number of days of, and amount of payment for, unemployment within such benefit year (as extended by the provisions of subsection (h) of this section) for which benefits may be paid shall be enlarged, but not by more than sixty-five days, to include all compensable days of unemployment within an extended benefit period determined pursuant to the provisions of subsection (h) of this section, but the total amount of benefits which may be paid to an employee for days of unemployment within such extended benefit period shall in no case exceed 50 per centum of the employee's compensation in the base year: *And provided further,* That with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal

benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment or sickness (depending on the type of benefit rights exhausted) within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment or days of sickness, as the case may be, within such extended benefit period:

* * * * * * *

[QUALIFYING CONDITION

[SEC. 3. An employee shall be a "qualified employee" if the Board finds that his compensation will have been not less than $1,500 with respect to the base year, and, if such employee has had no compensation prior to such year, that he will have had compensation with respect to each of not less than five months in such year.]

QUALIFYING CONDITION

SEC. 3. An employee is a qualified employee for the purposes of this Act if the Board finds that—

(1) such employee will have had compensation with respect to each of not less than 6 months in the base year; and

(2) such employee's compensation (excluding earnings in any month in excess of the monthly compensation base provided in section 1(i)) in the base year will not have been less than an amount equal to 5 times the monthly compensation base as provided in section 1(i) with respect to the base year.

DISQUALIFYING CONDITIONS

SEC. 4. (a-1) * * *

(a-2) There shall not be considered as a day of unemployment with respect to any employee—

(i)(A) subject to the provisions of subdivision (B) hereof, any of the days in the period beginning with the day with respect to which the Board finds that he left work voluntarily, and continuing until he has been paid compensation of not less than [$1,500] *$3,000* with respect to time after the beginning of such period *and before 1988 or, if any part of such compensation is paid in a calendar year after 1987, not less than an amount that is equal to 5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;*

* * * * * * *

CLAIMS FOR BENEFITS

SEC. 5. (a) * * *

(b) The Board is authorized and directed to make findings of fact with respect to any claim for benefits and to make decisions as to the right of any claimant to benefits. The Board is further author-

ized to hold each such hearings, to conduct such investigations and other proceedings, and to establish, by regulations or otherwise, such procedures as it may deem necessary or proper for the determination of a right to benefits. *When a claim for benefits is filed with the Board, the Board shall provide notice of such claim to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.*

(c) *(1)* Each qualified employee whose claim for benefits has been denied in whole or in part upon an initial determination with respect thereto upon a basis other than one which is reviewable pursuant to one of the succeeding paragraphs of this subsection shall be granted an opportunity for a fair hearing thereon before a referee or such other reviewing body as the Board may establish or assign thereto. *In any such case the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.*

(2) Any claimant whose claim for benefits has been denied in an initial determination with respect thereto upon the basis of his not being a qualified employee, and any claimant who contends that under an initial determination of his claim he has been awarded the benefits at less than the proper rate, may appeal to the Board for the review of such determination. Thereupon the Board shall review the determination and for such review may designate one of its officers or employees to receive evidence and to report to the Board thereon together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.

(3) Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination with respect thereto or in a determination after a hearing pursuant to paragraph (1), and who contends that the determination is erroneous for a reason or reasons other than a reason that is reviewable under paragraph (4), may appeal to the Board for review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits including if feasible adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board thereof together with recommendations. In any such case the

Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.

(4) In any case in which benefits are awarded to a claimant in whole or in part upon the basis of pay earned in the service of a person or company fund by the Board to be an employer as defined in this Act but which denies that it is such an employer, such benefits awarded on such basis shall be paid to such claimant subject to a right of recovery of such benefits. The Board shall thereupon designate one of its officers or employees to receive evidence and to report to the Board on whether such benefits should be repaid. The Board may also designate one of its officers or employees to receive evidence and report to the Board whether or not any person or company is entitled to a refund of contributions or should be required to pay contributions under this Act, regardless of whether or not any claims for benefits will have been filed upon the basis of service in the employ of such person or company, and shall follow such procedure if contributors are assessed and payment is refused or payment is made and a refund claimed upon the basis that such person or company is or will not have been liable for such contributions. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceedings and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the proceedings provided for in this paragraph and for decisions upon such proceedings.

(5) Final decision of the Board in the cases provided for in the preceding [two] *three* paragraphs shall be communicated to the claimant and to the other interested parties within fifteen days after it is made. Any properly interested party notified, as hereinabove provided, of his right to participate in the proceedings may obtain a review of any such decision by which he claims to be aggrieved or the determination of any issue therein the manner in subsection (f) of this section with respect to the review of the Board's decisions upon claims for benefits and subject to all provisions of law applicable to the review of such decisions. Subject only to such review, the decision of the Board upon all issues determined in such decisions shall be final and conclusive for all purposes and shall conclusively establish all rights and obligations, arising under this Act, of every party notified as hereinabove provided of his right to participate in the proceedings.

(6) For purposes of this subsection and subsections (d) and (f), any base-year employer of the claimant is a properly interested party.

(7) Any issue determinable pursuant to this subsection and subsection (f) of this section shall not be determined in any manner other than pursuant to this subsection and subsection (f).

* * * * * * *

(f) Any claimant, or any railway labor organization organized in accordance with the provisions of the Railway Labor Act, of which claimant is a member, *or any base-year employer of the claimant,* or any other party aggrieved by a final decision under subsection (c) of this section, may, only after all administrative remedies within the Board will have been availed of and exhausted, obtain a review of any final decision of the Board by filing a petition for review within ninety days after the mailing of notice of such decision to the claimant or other party, or within such further time as the Board may allow, in the United States court of appeals for the circuit in which the claimant or other party resides or will have had his principal place of business or principal executive office, or in the United States Court of Appeals for the Seventh Circuit or in the United States Court of Appeals for the District of Columbia. A copy of such petition, together with initial process, shall forthwith be served upon the Board or any officer designated by it for such purpose. *A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.* Service may be made upon the Board by registered mail addressed to the Chairman. Within thirty days after receipt of service, or within such additional time as the court may allow, the Board shall file with the court in which such petition has been filed the record upon which the findings and decision complained of are based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction of the proceeding and of the question determined therein. It shall have power to enter a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for rehearing. The findings of the Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive. No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court the additional record. The judgment and decree of the court shall be final, subject to review as in equity cases.

* * * * * * *

CONTRIBUTION

SEC. 8. [(a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $600 for any calendar month paid by him to any employee for services rendered to him. If compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall

not apply to more than $600 of the aggregate compensation paid to such employee by all such employers with respect to such calendar month, and each employer (other than a subordinate unit of a national railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. In the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $600, each subordinate unit of a national railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board, is:	The rate with respect to compensation paid during the next succeeding calendar year shall be (percent):
$300,000,000 or more	0.5
$200,000,000 or more but less than $300,000,000	4.0
$100,000,000 or more but less than $200,000,000	5.5
$50,000,000 or more but less than $100,000,000	7.0
Less than $50,000,000	8.0

[As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance of the credit of such account.]

(a) EMPLOYER CONTRIBUTION.—

(1) IN GENERAL.—

(A) GENERAL RULE.—

(i) CONTRIBUTION RATE GENERALLY.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C), or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i).

(ii) MULTIPLE EMPLOYER LIMITATION.— If compensation is paid to an employee by more than one employer in any calendar month—

(I) the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base; and

(II) each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee.

In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

(B) TRANSITIONAL RULE.—

(i) 1ST AND 2D CALENDAR YEARS.—Except as provided in clause vi, with respect to compensation paid in calendar years 1988 and 1989, the contribution rate shall be 8 percent.

(ii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar year 1990, the contribution rate shall be the smaller of—

(I) the maximum contribution limit computed under paragraph (20); or

(II) the percentage computed pursuant to the following formula:

$$R = \frac{2A + B}{3}$$

(iii) 4TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1991, the contribution rate shall be the smaller of—

(I) the maximum contribution limit computed under paragraph (20); or

(II) the percentage computed pursuant to the following formula:

$$R = \frac{A + 2C}{3}$$

(iv) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

(I) "R" is the applicable contribution rate expressed as a percentage for months in the calendar year;

(II) "A" is the contribution rate determined under clause (i);

(III) "B" is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1990; and

(IV) "C" is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1991.

(v) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

(I) the percentage rate computed under subparagraph (C), if more than the maximum contribution limit computed under paragraph (20) shall not be reduced to that limit; and

(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1989, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

(vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—With respect to each of calendar years 1988 and 1989, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable such carrier.

(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in a calendar year that begins after December 31, 1991, the contribution rate for each employer shall be determined as follows:

(i) STEP 1.—Compute the employer's benefit ratio as of the preceding June 30 to 4 decimal points in accordance with paragraph (2).

(ii) STEP 2.—Subtract the employer's reserve ratio as of the preceding June 30 as computed to 4 decimal points in accordance with paragraph (4).

(iii) STEP 3.—Subtract the pooled credit ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (12).

(iv) STEP 4.—Multiply by 100 the total arrived at under the steps set forth in clauses (i) through (iii) so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under such steps is 0 or less than 0, the percentage rate as so computed shall be 0.

(v) STEP 5.—Add 0.65 to the percentage rate arrived at under clause (iv), representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

(vi) STEP 6.—Add the surcharge rate for the calendar year, if any, as computed under paragraph (14).

(vii) STEP 7.—Add the pooled charge ratio for the calendar year, if any, as computed to 4 decimal points under paragraph (13) and multiplied by 100.

(viii) STEP 8.—Reduce the percentage rate computed in accordance with the preceding steps to the maximum contribution limit computed under paragraph (20), if such rate is higher than such limit. The rate computed in accordance with the preceding steps, after any reduction under this clause, is the contribution rate.

(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after December 31, 1988, shall be determined as follows:

(i) 1ST CALENDAR YEAR.—With respect to compensation paid in calendar months before the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the 3 calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined—

(I) by dividing the aggregate contributions paid by all employers under this subsection in those 3 calendar years by the aggregate compensation with respect to which such contributions were paid; and

(II) by multiplying the resulting ratio as computed to 4 decimal points by 100.

(ii) 2D CALENDAR YEAR.—With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of—

(I) the maximum contribution limit computed under paragraph (20); or

(II) the percentage rate computed pursuant to the following formula:

$$R = \frac{2(A2)+B}{3}$$

(iii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of—

(I) the maximum contribution limit computed under paragraph (20); or

(II) the percentage rate computed pursuant to the following formula:

$$R = \frac{A3+2C}{3}$$

(iv) SUBSEQUENT CALENDAR YEARS.—With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

(v) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

(I) "R" is the applicable contribution rate expressed as a percentage for months in the calendar year;

(II) "A1" is the contribution rate determined under clause (i) for such employer's first full calendar year;

(III) "A2" is the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year;

(IV) "A3" is the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been such employer's first full calendar year;

(V) "B" is the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and

(VI) "C" is the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year.

(vi) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

(I) the percentage rate computed under subparagraph (C), shall not be reduced under clause (viii) of that subparagraph; and

(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter that begins after the date on which the employer first commenced paying compensation subject to this Act and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under paragraph (15) during the 12 calendar quarters ending on such June 30 by the employer's 3-year compensation base as of such June 30 as computed under paragraph (3).

(3) 3-YEAR COMPENSATION BASE.—An employer's 3-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed under paragraph (6), by that employer's 1-year compensation base as of such June 30, as computed under paragraph (5). The employer's reserve ratio may be either a positive or a negative figure, depending upon whether the employer's reserve balance is a positive or negative figure.

(5) 1-YEAR COMPENSATION BASE.—An employer's 1-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 4 calendar quarters ending on such June 30.

(6) RESERVE BALANCE.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed under paragraph (7), from the employer's net cumulative contribution balance as of such June 30, computed under paragraph (8). An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

(7) CUMULATIVE BENEFIT BALANCE.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding—

(A) the net amount of the benefits charged to the employer under paragraph (15) on or after January 1, 1989; and

(B) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed under paragraph (9).

(8) NET CUMULATIVE CONTRIBUTION BALANCE.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

(A) STEP 1.—Compute the sum of

(i) all contributions paid by the employer pursuant to this subsection;

(ii) that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987; or

(iii) any taxes paid by the employer pursuant to section 3321(a) of the Internal Revenue Code of 1986 (after the outstanding balance of loans made under section 10(d) before October 1, 1985, plus interest, have been paid);

on or after January 1, 1989.

(B) STEP 2.—Subtract an amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i).

(C) STEP 3.—Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (1)(C)(iii).

(9) UNALLOCATED CHARGE.—An employer's unallocated charge as of any given June 30 is the amount that as of such June 30 bears the same ratio to the system unallocated charge balance, computed under paragraph (10), as the employer's 1-year compensation base, computed under paragraph (5), bears to the system compensation base computed under paragraph (11).

(10) SYSTEM UNALLOCATED CHARGE BALANCE.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

(A) STEP 1.—Compute the aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d), during the 4 calendar quarters ending on that June 30.

(B) STEP 2.—Add the aggregate amount of any additions to the system unallocated charge balance specified in paragraphs (15) and (16), during that period.

(C) STEP 3.—Add the aggregate amount of any other expenditures by the account during that period not chargeable to any individual employer under paragraph (15) or to the fund under section 11.

(D) STEP 4.—Subtract the aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii), during that period.

(E) STEP 5.—Subtract the aggregate amount of all transfers to the account, pursuant to section 11(d), during that period.

(F) STEP 6.—Subtract the aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances.

(G) STEP 7.—Subtract the net cumulative contribution balance of each employer whose balance has been cancelled pursuant to paragraph (16), during that period, calculated as of the date of such cancellation.

(11) SYSTEM COMPENSATION BASE.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the 1-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with paragraph (5), as of such June 30.

(12) POOLED CREDIT RATIO.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, as computed in accordance with paragraph (11).

(B) STEP 2.—If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio for the calendar year.

(13) POOLED CHARGE RATIO.—The pooled charge ratio, if any, for a calendar year shall be determined as follows:

(A) STEP 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 under paragraph (1)(C) was greater than the maximum contribution limit computed under paragraph (20), multiply the employer's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), by the difference between—

(i) the percentage rate determined under subparagraph (B), (C), or (D) of paragraph (1) before the reduction to the maximum contribution limit; and

(ii) the maximum contribution limit.

(B) STEP 2.—Add the amounts arrived at under step 1 so as to obtain an aggregate amount for all such employers.

(C) STEP 3.—For each employer whose contribution rate as computed through step 3 under paragraph (1)(C) was less than 0, the percentage rate by which such employer's rate was raised in order to bring that rate to 0 shall be multiplied by that employer's 1-year compensation base as of the preceding June 30. Subtract the total of the amounts computed under the preceding sentence for all employers from the amount arrived at in step 2.

(D) STEP 4.—Divide the aggregate amount arrived at under step 3 by the system compensation base as of the preceding June 30 as computed under paragraph (11) minus the one-year compensation base of those employers whose

rates computed through step 6 of paragraph (1)(C) exceeded the maximum contribution rate computed under paragraph (20). The result is the pooled charge ratio for the calendar year.

(14) SURCHARGE RATE.—The surcharge rate for a calendar year, if any, shall be determined as follows:

(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. There will be a surcharge rate for the calendar year only if that balance is less than the greater of $100,000,000 or of the amount that bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, as computed in accordance with paragraph (11).

(B) STEP 2.—(i) If the balance to the credit of the account is less than the greater of the amounts referred to in the 2nd sentence of step 1 but is equal to or more than the greater of $50,000,000 or of the amount that bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, then the surcharge rate for the calendar year shall be 1.5 percent.

(ii) If the balance to the credit of the account is less than the greater of the amounts referred to in the clause (i), but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent.

(iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 per cent.

(15) CHARGEABLE BENEFITS.—

(A) IN GENERAL.—Beginning January 1, 1989, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance.

(B) ADJUSTMENTS.—A sum equal to each amount realized in recovery for overpayment, erroneous payment, or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

(C) MULTIPLE EMPLOYERS.—

(i) IN GENERAL.—All benefits paid to an employee who had more than 1 base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers—

(I) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by that employer to the employee in the base year; and

(II) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year.

(ii) SPECIAL RULE FOR EMPLOYER WITH CANCELLED BALANCES.—All benefits chargeable under this subparagraph to an employer for which the Board has cancelled balances under paragraph (16) shall be added to the system unallocated charge balance.

(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective on the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance and cancel all other accumulations of the employer.

(17) INDIVIDUAL EMPLOYER RECORD.—

(A) IN GENERAL.—As of January 1, 1989, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer.

(B) DEFINITION.—As used in this paragraph, the term "individual employer record" means a record of an individual employer's benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow 2 or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

(19) MERGERS, CONSOLIDATIONS, OR OTHER CHANGES IN EMPLOYER IDENTITY.—

(A) WITH OTHER EMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the 2 employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to paragraph (18) or if the Board otherwise determines, pursuant to regulations prescribed by the Board, that such joint treatment is desirable.

(B) WITH NONEMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity that is not an employer, the employer's individual employer record shall attach to the combined entity.

(C) SALE OF ASSETS.—In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among 2 or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

(D) REINCORPORATION.—The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

(E) ABANDONMENT.—If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

(20) MAXIMUM CONTRIBUTION LIMIT.—The maximum contribution limit with respect to a calendar year is 12 percent, unless a 3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent.

(21) SPECIAL RULES FOR CERTAIN COMPUTATIONS UNDER PARAGRAPH (1)(C).—(A) Any computation that is to be made under paragraph (1)(C) on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period—

(i) beginning on the later of—

(I) January 1, 1989;

(II) the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this Act; or

(III) July 1 of the third calendar year preceding that June 30; and

(ii) ending on that June 30.

(B) The amount computed under subparagraph (A) shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.

[(b) Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative during any month as is not, for any such calendar month, in excess of $600, at the rate applicable to employers in accordance with subsection (a) of this section. The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.]

(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with section 1(i), at a rate which shall be determined under subsection (a) in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.

(c) BOARD PROCLAMATION OF BALANCE.—

(1) IN GENERAL.—Not later than October 15, 1989, and October 15 of each year thereafter the Board shall proclaim—

(A) the balance to the credit of the account as of the preceding June 30 for purposes of paragraphs (12) and (14) of subsection (a);

(B) the balance of any advances to the account under section 10(d) after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

(C) the system compensation base as of that June 30 as computed in accordance with paragraph (11) of that subsection;

(D) the system unallocated charge balance as of that June 30, as computed in accordance with paragraph (10) of that subsection; and

(E) the pooled credit ratio, the pooled charge ratio, and the surcharge rate, if any, as determined under paragraph (12), (13), or (14) of that subsection and applicable in the following calendar year.

(2) PUBLICATION OF NOTICE.—As soon as is practicable after such proclamation, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

(d) NOTIFICATIONS BY BOARD.—(1) Not later than the last day of any calendar quarter that begins after March 31, 1989, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance with paragraphs (7) and (8) of subsection (a) as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

(2) Not later than October 15, 1989, and October 15 of each year thereafter, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with paragraphs (2), (3), (4), (5), (6), and (9) of subsection (a), and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under paragraph (1) (B), (C), or (D) of that subsection.

(e) INFORMATION TO VERIFY ACCURACY TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.

[(c)] *(f)* In the payment of any contribution under this Act, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

[(d)] *(g)* If more than the correct amount of the contribution required by this section is paid with respect to any compensation, then, under regulations prescribed under this Act by the Board, proper adjustments with respect to the contributions shall be made, without interest, in connection with subsequent contribution payments made under this Act by the same employer or employee representative.

[(e)] *(h)* If more than the correct amount of the contribution required by this section is paid with respect to any compensation and the overpayment or underpayment of the contribution cannot be adjusted under subsection (d) of this section, the amount of the overpayment shall be refunded from the account, or the amount of the underpayment shall be collected, in such manner and at such times (subject to the statute of limitation properly applicable thereto) as may be prescribed by regulations of the Board.

[(f)] *(i)* The contributions required by this Act shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, such part thereof as equals [0.5] *0.63* per centum of the total compensation on which such contributions are based to be deposited to the credit of the fund and the balance to be deposited to the credit of the account.

[(g)] *(j)* The contributions required by this Act shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this Act as may be prescribed by regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ. If a contribution required by this Act is not paid when due, there shall be added to the amount payable (except in the case of adjustments made in accordance with the provisions of

this Act) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account.

[(h)] *(k)* All provisions of law, including penalties, applicable with respect to any tax imposed by the provisions of the Railroad Retirement Tax Act, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the contributions required by this Act: *Provided,* That all authority and functions conferred by or pursuant to such provisions upon any officer or employee of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to such contributions, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefor. *The remedies available under the first sentence of this subsection for an employer or employee representative who contests the amount of contributions payable by him shall also apply with respect to a contention that the contribution rate determined by the Board under subsection (a) or (b) to be applicable to such employer or employee representative is inaccurate or otherwise improper.*

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RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 10. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance account. This account shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as is in excess of [0.5] *0.65* per centum of the total compensation on which such contributions are based, together with all interest collected pursuant to section 8(g) of this Act; (ii) all amounts transferred or paid into the account pursuant to section 13 or section 14 of this Act; (iii) all additional amounts appropriated to the account in accordance with any provision of this Act or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 904(e) of the Social Security Act; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 11 of this Act; (vii) all fines or penalties collected pursuant to the provisions of this Act; and (viii) all amounts credited thereto pursuant to section 2(f) or section 12(g) of this Act. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are hereby permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this Act, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund.

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RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as equals [0.5] *0.65* per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this Act. Such additional amounts are hereby authorized to be appropriated.

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DUTIES AND POWERS OF THE BOARD

SEC. 12. (a) * * *

* * * * * * *

(d) Information obtained by the Board in connection with the administration of this Act shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this Act; (ii) the Board may disclose such information in cases in which the Board finds that such disclosures is clearly in furtherance of the interest of the employee or his estate; [and] (iii) any claimant of benefits under this Act shall, upon his request, be supplied with information from the Board's records pertaining to his claim; *and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 5 of this Act.*

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(n) Any employee claiming, entitled to, or receiving sickness benefits under this Act may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness benefits shall be payable under this Act with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee, upon which a claim or right to benefits under this Act is based, shall furnish the Board, in such manner and form and at

such times as the Board by regulations may prescribe information and reports relative thereto and to the condition of the employee. An application for sickness benefits under this Act shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness period upon which such application is based: *Provided*, That such information shall not be disclosed by the Board except in a [court] proceeding related to any claims for benefits by the employee under this Act.

* * * * * * *

(r) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—

(1) COMPENSATION BASE.—On or before December 1, 1987, and on or before December 1 of each year thereafter, the Board shall compute—

(A) in accordance with section 1(i), the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

(B) the amounts described in section 1(k), section 2(c), section 3, and section 4(a-2)(i)(A) that are related to changes in the monthly compensation base.

(2) MAXIMUM DAILY BENEFIT RATE.—On or before June 1, 1988, and on or before June 1 of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

(3) NOTICE IN FEDERAL REGISTER AND TO EMPLOYERS.—Not later than 10 days after each computation made under this paragraph, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.

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INTERNAL REVENUE CODE OF 1986

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Subtitle C—Employment Taxes and Collection of Income Tax at Source

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[CHAPTER 23A—RAILROAD UNEMPLOYMENT REPAYMENT TAX

[Sec. 3321. Imposition of tax.
[Sec. 3322. Taxable period.
[Sec. 3323. Other definitions.

[SEC. 3321. IMPOSITION OF TAX.

[(a) GENERAL RULE.—There is hereby imposed on every rail employer for each taxable period an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the total rail wages paid by him during the taxable period.

[(b) TAX ON EMPLOYEE REPRESENTATIVE.—

[(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the rail wages paid to him during the taxable period.

[(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

[(c) RATE OF TAX.—For purposes of this section—

[(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

[(A) the basic rate for such period, and

[(B) the surtax rate (if any) for such period.

[(2) BASIC RATE.—For purposes of paragraph (1)—

[(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

[(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

[(ii) 4.7 percent for the 1987 taxable period, and

[(iii) 6 percent for the 1988 taxable period.

[(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

[(i) 2.9 percent, plus

[(ii) 0.3 percent for each preceding taxable period after 1988. In no event shall the basic rate under this subparagraph exceed 5 percent.

[(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

[(A) 3.5 percent for any taxable period if, as of September 30 of the prceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(b) of the Railroad Unemployment Insurance Act, and

[(B) zero for any other taxable period.

(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990.

[SEC. 3322. TAXABLE PERIOD.

[(a) GENERAL RULE.—For purposes of this chapter, except as provided in subsection (b), the term "taxable period" means—

[(1) the period beginning on July 1, 1986, and ending on December 31, 1986, and

[(2) each calendar year after 1986.

[(b) EARLIER TERMINATION IF LOANS TO RAIL UNEMPLOYMENT FUND REPAID.—The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply to any rail wages paid on or after the first January 1 after 1986 as of which there is—

[(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

[(2) no unpaid interest on such transfers.

[SEC. 3323. OTHER DEFINITIONS.

[(a) RAIL EMPLOYER.—For purposes of this chapter, the term "rail employer" means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

[(b) RAIL WAGES.—

[(1) IN GENERAL.—For purposes of this chapter, the term "rail wages" means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

[(2) MODIFICAITONS.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

[(A) ONLY EMPLOYMENT COVERED BY RAILROAD UNEMPLOYMENT INSURANCE ACT TAKEN INTO ACCOUNT.—Such subsection (e) shall be applied—

[(i) by substituting "rail employment" for "services" each place it appears,

[(ii) by substituting "rail employer" for "employer" each place it appears, and

[(iii) by substituting "rail employee" for "employee" each place it appears.

[(B) $7,000 WAGE BASE.—Such subsection (e) shall be applied by substituting for "the applicable base" in paragraph (2)(A)(i) thereof—

[(i) except as provided in clauses (ii) and (iii), "$7,000",

[(ii) "$3,500" for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

[(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), "$5,250" for the taxable period beginning on January 1. 1990.

[(C) SUCCESSOR EMPLOYERS.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply.

[(c) RAIL EMPLOYMENT.—For purposes of this chapter, the term "rail employment" means services performed by an individual as a rail employee or employee representative.

[(d) RAIL EMPLOYEE AND EMPLOYEE REPRESENTATIVE.—For purposes of this chapter—

[(1) RAIL EMPLOYEE.—The term "rail employee" means any person who is an employee as defined in section 1 of the Railroad Unemployment Insurance Act.

[(2) EMPLOYEE REPRESENTATIVE.—The term "employee representative" has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

[(e) CONCURRENT EMPLOYMENT BY 2 OR MORE RAIL EMPLOYERS.—For purposes of this chapter, if 2 or more related corporations which are rail employers concurrently employ the same individual and compensate such individual through a common paymaster which is 1 of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual

amounts actually disbursed to such individual by another of such corporations.

[(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of sections 3307 and 3308 shall apply.]

CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Sec. 3321. Imposition of tax.
Sec. 3322. Definitions.

SEC. 3321. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

(b) TAX ON EMPLOYEE REPRESENTATIVES.—

(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(2) no unpaid interest on such transfers.

SEC. 3322. DEFINITIONS.

(a) RAIL EMPLOYER.—For purposes of this chapter, the term "rail employer" means any person who is an employer as defined in section 1 of the Railraod Unemployment Insurance Act.

(b) RAIL WAGES.—For purposes of this chapter, the term "rail wages" means, with respect to any calendar month, so much of the remuneration paid during such month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term "employee representative" has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply.

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Subtitle F—Procedure and Administration

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

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Subchapter A—PLace and Due Date for Payment of Tax

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SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

(a) * * *

* * * * * * *

[(d) QUARTERLY PAYMENT OF RAILROAD UNEMPLOYMENT REPAYMENT TAX.—

[(1) IN GENERAL.—Every rail employer shall compute the tax imposed by section 3321 for each calendar quarter in any taxable period in the manner provided in paragraph (2). The tax so computed shall, except as otherwise provided in paragraph (3), be paid in such manner and at such time as may be provdied in regulations prescribed by the Secretary.

[(2) COMPUTATION OF TAX.—The tax for any calendar quarter shall be computed by multiplying the aggregate amount of rail wages paid in such calendar quarter by the applicable percentage determined under section 3321(c)]

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CHAPTER 63—ASSESSMENT

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Subchapter A—In General

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SEC. 6201. ASSESSMENT AUTHORITY.

(a) * * *

(b) Amount Not to Be Assessed.—

(1) * * *

(2) FEDERAL. UNEMPLOYMENT TAX.—No unpaid amount of Federal unemployment tax [or tax imposed by section 3321] for and calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

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CHAPTER 64—COLLECTION

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Subchapter B—Receipt of Payment

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SEC. 6317. PAYMENTS OF FEDERAL UNEMPLOYMENT TAX FOR CALENDAR QUARTER.

Payment of Federal unemployment tax [or tax imposed by section 3321] for a calendar quarter or other period within a calendar year pursuant to seciton 6157 shall be considered payment on ac-

count of the tax imposed by chapter 23 [and 23A, as the case may be,] of such calender year.

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CHAPTER 66—LIMITATIONS

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Subchapter B—Limitation on Credit or Refund

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SEC. 6513. TIME RETURN DEEMED FILED AND TAX CONSIDERED PAID.

(a) * * *

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(e) PAYMENTS OF FEDERAL UNEMPLOYMENT TAX.—Notwithstanding subsection (a), for purposes of section 6511 any payment of tax imposed by chapter 23 which, pursuant to section 6157, is made for a calendar quarter or other period within a calendar year shall, if made before the last day prscribed for filing the return for the calendar year (determined without regard to any estension of time for filing), be considered made on such last day. [Notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.]

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CHAPTER 67—INTEREST

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Subchapter A—Interest on Underpayments

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SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) * * *

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(i) EXCEPTION AS TO FEDERAL UNEMPLOYMENT TAX.—This section shall not apply to any failure to make a payment of tax imposed by section 3301 [or 3321] for a calendar quarter or other period within a taxable year required under authority of section 6157.

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SECTION 232 OF THE RAILROAD RETIREMENT REVENUE ACT OF 1983

SEC. 232. TAX USED TO REPAY LOANS MADE TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.

(a) TRANSFER TO RAILROAD RETIREMENT ACCOUNT—

(1) * * *

(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as [is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954] *is not attributable to the surtax rate under section 106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987* shall be credited against, and oeprate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

(B) TAXES ATTRIBUTABLE TO SURTAX RATE OF REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section [3321(c)(1)(B) of such Code] *106(b) of such Act* shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985.

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RAILROAD RETIREMENT ACT OF 1974

DEFINITIONS

SECTION 1. For the purposes of this Act—
(a) * * *

* * * * * * *

(g)(1) For purposes of section 3(i)(2) of this Act, an individual shall be deemed to have been in the "military service" when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

(2) For purposes of section 3(i)(2) of this Act, a "war service period" shall mean (A) any war period, or (B) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (C) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense. For purposes of section 3(i)(2) of this Act, the period beginning on June 15, 1948, and ending on December 15, 1950, shall be deemed to be a war service period with respect to any individual who without intervening employment not covered by this Act rendered service as an employee to an employer under this Act in the year such individual was re-

leased from active military service or in the year immediately following such year.

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ANNUITY ELIGIBILITY REQUIREMENTS

SEC. 2. (a) * * *

* * * * * * *

(e)(1) No individual shall be entitled to an annuity under subsection (a)(1) until he shall have ceased to render compensated service to [any person, whether or not] an employer as defined in section 1(a) [(but with the right to engage in other employment to the extent not prohibited by subdivision (3) or (4) of this subsection or by subsection (f)). As used in this subsection, the term "compensated service" shall not include any service as an elected public official of the United States, a State, or any political subdivision of a State].

(2) An annuity under subsection (a)(1) shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer [and of the person, or persons, by whom he was last employed]: *Provided, however,* That this requirement shall not apply to individuals mentioned in paragraphs (iv) and (v) of subsection (a)(1) prior to attaining retirement age (as defined in section 216(l) of the Social Security Act): *Provided further,* That, notwithstanding the provisions of the preceding proviso and of clause (i) of subsection (c)(1) of this section, an annuity shall be paid to the spouse of an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the preceding proviso: *And provided further,* That, notwithstanding the provisions of the first proviso of this subdivision and of clause (iii) of subsection (b)(1) of this section, a supplemental annuity shall be paid to an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the first proviso thereof.

(3) No annuity under subsection (a)(1) or supplemental annuity under subsection (b)(1) shall be paid with respect to any month in which an individual in receipt of an annuity or supplemental annuity thereunder shall render compensated service to an employer [or to the last person, or perons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue]. Individuals receiving annuities under subsection (a)(1) shall report to the Board immediately all such compensated service.

(4) No annuity under paragraph (iv) or (v) of subsection (a)(1) shall be paid to an individual with respect to any month in which the individual is under retirement age (as defined in section 216(l) of the Social Security Act) and is paid more than [$200 in earnings] *$400 in earnings (after deduction of disability related work expenses)* from employment or self-employment of any form: *Provided, however,* That for purposes of this subdivision, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such

month. Any such individual under the retirement age (as defined in section 216(l) of the Social Security Act) shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to the sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the first sentence of this subdivision an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in subdivision (3)) did not exceed [$2,400,] *$4,800 (after deduction of disability related work expenses)* the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the third sentence of this subdivision, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in subdivision (3)) is in excess of [$2,400,] *$4,800 (after deduction of disability related work expenses)* the number of months in such year with respect to which an annuity is not payable by reason of such first and third sentences shall not exceed one month for each [$200] *$400* of such excess, treating the last [$100] *$200* or more of such excess as [$200] *$400*; and if the amount of the annuity has changed during such year, any payments of annuities which become payable solely by reason of the limitations contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

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(f)(1) * * *

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(6)(A) Except as provided in subparagraph (B)—

(i) that portion of the annuity for any month of an individual as is computed under section 3(b) and as adjusted under section 3(g), plus any supplemental amount for such month under section 3(e), and that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d), shall each be subject to a deduction of $1 for each $2 of compensation received by such individual from compensated service rendered in such month to the last person, or persons, by whom such individual was employed before the date on which the annuity of such individual under subsection (a)(1) began to accrue; and

(ii) that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section

4(d) shall be subject to a deduction of $1 for each $2 of compensation received by such spouse from compensated service rendered in such month to the last person, or persons, by whom such spouse was employed before the date on which the annuity of such spouse under subsection (c)(1) began to accrue.

(B) Any deductions imposed by this subdivision for any month shall not exceed 50 percent of the annuity amount for such month to which such deductions apply.

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LUMP-SUM PAYMENTS

SEC. 6. (a) * * *

* * * * * * *

(e)(1) Every individual who will have completed ten years of service at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

(2) The lump sum provided under subdivision (l) of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 3(i)(4) of this Act if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986.

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VI. ADDITIONAL VIEWS OF CONGRESSMAN BILL FRENZEL

There may have been a good reason for a separate, underfunded program in the past when the federal government meddled in the affairs of the railroads. That time is long past.

This program should be integrated into our national unemployment compensation program. Employers would pay what the system costs, and employees would get the same protection that other Americans now receive. Under this separate program, employers have paid less and employees have received lower compensation benefits.

This particular bill maintains the unfair status quo. That is its primary failure.

On the tax side, it sets a course for paying off deficiencies by the late 1990's. That's an improvement, but not good enough.

On the payment side, by raising benefits, it loses more than is gained. Even at the new, increased level, the benefits are far below normal unemployment compensation. Still, the new benefits are a deficit booster, because of the small tax increases.

The right way to handle the problem is to normalize it. As long as Congress keeps this program separate, benefits will be too low, and so will contributions.

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